



General Assembly

February Session, 2022

Bill No. 5505

LCO No. 5416



Referred to Committee on No Committee

Introduced by:

REP. RITTER M., 1st Dist.

SEN. LOONEY, 11th Dist.

REP. ROJAS, 9th Dist.

SEN. DUFF, 25th Dist.

REP. CANDELORA V., 86th Dist.

SEN. KELLY, 21st Dist.

AN ACT CONCERNING CERTAIN AEROSPACE MANUFACTURING PROJECTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective from passage*) (a) As used in this section:
- 2 (1) "Aerospace manufacturing project" means a project involving the
- 3 production of helicopters in this state that, if certified by the
- 4 commissioner as provided in subsection (b) of this section, will require
- 5 (A) primary helicopter production for current United States government
- 6 programs specified in the assistance agreement, as of the date of the
- 7 assistance agreement, to be carried out at one or more facilities in this
- 8 state, (B) the undertaking and maintaining of primary production for
- 9 helicopters to be produced during the term of the assistance agreement
- 10 under one or more future United States government programs specified
- 11 in the assistance agreement under production contracts entered into by
- 12 the eligible taxpayer after the effective date of this section, to be carried
- 13 out at one or more facilities in this state, and (C) minimum requirements

14 for total employment in this state, average employee wages in this state,
15 supplier spend and capital expenditures by an eligible taxpayer in
16 furtherance of such project continuing through at least June 30, 2042;

17 (2) "Annual recapture amount" means the total project tax benefits
18 utilized by an eligible taxpayer divided by ten;

19 (3) "Assistance agreement" means a contract entered into between the
20 commissioner and an eligible taxpayer in accordance with subsection (c)
21 of this section, including any amendments to or extensions of such
22 contract;

23 (4) "Average wage requirement" means, for compliance years
24 commencing on or after July 1, 2022, and prior to July 1, 2032, an average
25 annual wage for full-time employees in this state that is not less than the
26 amounts specified in the assistance agreement;

27 (5) "Benefit period" means the period commencing on the effective
28 date of the assistance agreement and ending on June 30, 2032;

29 (6) "Capital expenditure" means bona fide costs to the wholly-owned
30 subsidiary and its subsidiaries for: (A) Acquisition of lands, buildings,
31 machinery, equipment or any combination thereof; (B) site and
32 infrastructure improvements; (C) planning costs; (D) research and
33 development expenses, as defined in section 12-217n of the general
34 statutes, revision of 1958, revised to January 1, 2021, and including, but
35 not limited to, development of new products and markets; and (E)
36 development of diversification strategies, including plans for regional
37 diversification strategies and consultants required for the completion of
38 such strategies and plans;

39 (7) "Capital expenditure requirement" means, for compliance years
40 commencing on or after July 1, 2022, and prior to July 1, 2032, a total
41 annual amount of capital expenditures made in this state by the wholly-
42 owned subsidiary that is not less than:

43 (A) Seventy million two hundred thousand dollars for the
44 compliance year ending June 30, 2023;

45 (B) Seventy-one million one hundred thousand dollars for the
46 compliance year ending June 30, 2024;

47 (C) Seventy-two million nine hundred thousand dollars for the
48 compliance year ending June 30, 2025;

49 (D) Seventy-three million eight hundred thousand dollars for the
50 compliance year ending June 30, 2026;

51 (E) Seventy-five million six hundred thousand dollars for the
52 compliance year ending June 30, 2027;

53 (F) Seventy-seven million four hundred thousand dollars for the
54 compliance year ending June 30, 2028;

55 (G) Seventy-eight million three hundred thousand dollars for the
56 compliance year ending June 30, 2029;

57 (H) Eighty million one hundred thousand dollars for the compliance
58 year ending June 30, 2030;

59 (I) Eighty-one million nine hundred thousand dollars for the
60 compliance year ending June 30, 2031; and

61 (J) Eighty-three million seven hundred thousand dollars for the
62 compliance year ending June 30, 2032;

63 (8) "Commissioner" means the Commissioner of Economic and
64 Community Development;

65 (9) "Company" means an entity with a place of business or a wholly-
66 owned subsidiary located in this state and the direct and indirect
67 subsidiaries and affiliates of such entity;

68 (10) "Compliance year" means each twelve-month period

69 commencing July first and continuing through June thirtieth of the
70 following year, provided the initial compliance year shall commence on
71 July 1, 2022, and end on June 30, 2023, and the last compliance year shall
72 commence on July 1, 2031, and end on June 30, 2032. "Annual" refers to
73 a compliance year;

74 (11) "Contract year" means each twelve-month period commencing
75 July first and continuing through June thirtieth of the following year,
76 provided the initial contract year shall commence on July 1, 2022, and
77 end on June 30, 2023, and the last contract year shall commence on July
78 1, 2041, and end on June 30, 2042;

79 (12) "Corporation business tax" means the tax due under chapter 208
80 of the general statutes;

81 (13) "Eligible taxpayer" means a company that, at the time application
82 is made under subsection (b) of this section, (A) is engaged in the
83 aerospace industry, (B) employs not less than seven thousand
84 individuals in this state, (C) operates the company's primary helicopter
85 production facility for its current United States government programs
86 in this state, (D) plans to bid on a production contract or contracts for a
87 helicopter under one or more United States government programs, and
88 (E) has a wholly-owned subsidiary with production facilities and its
89 headquarters, as set forth in the assistance agreement, in this state prior
90 to the effective date of this section;

91 (14) (A) "Employee requirement" means, for compliance years
92 commencing on or after July 1, 2022, and prior to July 1, 2032:

93 (i) A minimum level of full-time employees in this state that is not
94 less than an average of seven thousand three hundred seventy-five for
95 each compliance year if the eligible taxpayer has entered into a
96 production contract for one United States government program
97 specified in the assistance agreement; and

98 (ii) A minimum level of full-time employees in this state that is not

99 less than an average of seven thousand five hundred for each
100 compliance year if the eligible taxpayer has entered into production
101 contracts for two United States government programs specified in the
102 assistance agreement.

103 (B) The average number of full-time employees for each compliance
104 year shall be determined by adding the number of full-time employees
105 at the end of each quarter of the respective compliance year and
106 dividing the sum of such quarters by four;

107 (15) "Full-time employee" means an employee in this state of the
108 company who works a minimum of thirty-five hours per week. "Full-
109 time employee" does not include an employee working on a temporary
110 or seasonal basis or any individual who does not receive a federal Form
111 W-2 from the company;

112 (16) "Minimum requirements" means the minimum conditions the
113 eligible taxpayer must satisfy during each compliance year to qualify for
114 the sales and use tax offset for such compliance year and the refundable
115 tax credit for such compliance year, including, but not limited to, (A)
116 achieving the employee requirement, average wage requirement,
117 supplier spend requirement and capital expenditure requirement, (B)
118 the maintenance of the wholly-owned subsidiary's headquarters, as set
119 forth in the assistance agreement, in this state, (C) the maintenance and
120 operation of the company's primary helicopter production facility for its
121 current United States government programs, as of the date of the
122 assistance agreement, in this state, (D) the undertaking and maintaining
123 in this state of the company's primary production for helicopters to be
124 produced during the term of the assistance agreement under one or
125 more future United States government programs specified in the
126 assistance agreement under production contracts entered into by the
127 eligible taxpayer after the effective date of this section, and (E) the
128 maintenance of diversity and workforce training programs by the
129 company in accordance with the terms of the assistance agreement;

130 (17) "Production" means the various operations related to the
131 completion of a helicopter, including, but not limited to, procurement,
132 engineering, manufacture, assembly, integration and testing;

133 (18) "Production contract" means a contract with the United States
134 government for the production of helicopters;

135 (19) "Project tax benefit" means the total benefit accruing to an eligible
136 taxpayer with respect to the sales and use tax offset and the refundable
137 tax credit;

138 (20) "Refundable tax credit" means the credit described in subsection
139 (e) of this section;

140 (21) "Regular place of business" means any bona fide office, factory,
141 warehouse or other space in this state at which a supply company is
142 doing business in its own name in a regular and systematic manner and
143 which place is continuously maintained, occupied and used by the
144 supply company in carrying on its business through its employees
145 regularly in attendance to carry on the supply company's business in the
146 supply company's own name. "Regular place of business" does not
147 include a place of business for a statutory agent for service of process, a
148 temporary office or location used by the supply company only for the
149 duration of the contract or an office maintained, occupied and used by
150 a person affiliated with the supply company;

151 (22) "Sales and use tax" means the taxes due under chapter 219 of the
152 general statutes;

153 (23) "Sales and use tax offset" means the offset described under
154 subsection (d) of this section;

155 (24) "Supply company" means any commercial business with a
156 regular place of business in this state that supplies goods and services
157 necessary to support (A) the manufacturing of company products, or (B)
158 company operations. "Supply company" does not include any local,

159 state or federal revenue collection or taxing entity;

160 (25) (A) "Supplier spend requirement" means, for compliance years
161 commencing on or after July 1, 2022, and prior to July 1, 2032, the total
162 annual spend by the wholly-owned subsidiary and by the company, on
163 behalf of the wholly-owned subsidiary, with supply companies in this
164 state of not less than:

165 (i) Three hundred million dollars for compliance years commencing
166 on or after July 1, 2022, and prior to July 1, 2024;

167 (ii) Four hundred ten million dollars for compliance years
168 commencing on or after July 1, 2024, and prior to July 1, 2029; and

169 (iii) Four hundred seventy million dollars for compliance years
170 commencing on or after July 1, 2029, and prior to July 1, 2032.

171 (B) If an expenditure qualifies for both the supplier spend
172 requirement and the capital expenditures requirement, the eligible
173 taxpayer may choose between such categories for which such
174 expenditure may be counted. In no event shall any such expenditure be
175 counted towards more than one such category; and

176 (26) "Wholly-owned subsidiary" means a subsidiary of the company,
177 or such subsidiary's successor to its operations, that has its
178 headquarters, as set forth in the assistance agreement, in this state.
179 "Wholly-owned subsidiary" includes any direct or indirect subsidiary of
180 the company's wholly-owned subsidiary and any limited liability
181 company wholly owned directly or indirectly by the company's wholly-
182 owned subsidiary.

183 (b) (1) Any eligible taxpayer that intends to undertake an aerospace
184 manufacturing project may apply to the commissioner for certification
185 of such project as a certified aerospace manufacturing project. In order
186 to receive such certification, an eligible taxpayer shall apply to the
187 commissioner, in a form acceptable to the commissioner and including

188 such information as prescribed by the commissioner, including, but not
189 limited to, (A) a detailed plan outlining the aerospace manufacturing
190 project, (B) the term of such project, and (C) the estimated expenditures
191 for such project. The commissioner may require such eligible taxpayer
192 to submit such additional information as may be necessary to evaluate
193 the application.

194 (2) All decisions of the commissioner with respect to any application
195 received under subdivision (1) of this subsection shall be made in the
196 commissioner's discretion. The provisions of this subsection shall not be
197 construed to authorize suit against this state by any taxpayer that is
198 denied certification by the commissioner and shall not be construed as
199 a waiver of sovereign immunity.

200 (c) (1) Upon certification by the commissioner of an application as
201 provided in subsection (b) of this section, the commissioner may enter
202 into an assistance agreement with an eligible taxpayer pursuant to
203 which the commissioner may, in consideration of the eligible taxpayer's
204 agreement to meet the minimum requirements in a compliance year in
205 connection with the certified aerospace manufacturing project and as
206 further inducement for the eligible taxpayer to enter into an aerospace
207 manufacturing project, agree to permit the eligible taxpayer to offset its
208 sales and use tax liability and to claim a credit against its corporation
209 business tax liability up to a specified amount for the corresponding
210 compliance year.

211 (2) Such assistance agreement shall have a term of not less than
212 twenty years and shall list:

213 (A) The specifications of the certified aerospace manufacturing
214 project;

215 (B) The length of time the certified aerospace manufacturing project
216 will take to complete;

217 (C) The minimum requirements the eligible taxpayer agrees to meet

218 during each compliance year;

219 (D) The commitment by the eligible taxpayer to (i) maintain the
220 headquarters, as set forth in the assistance agreement, of the wholly-
221 owned subsidiary or its successor in this state, (ii) operate its primary
222 helicopter production facility for its current United States government
223 programs, as of the date of the assistance agreement, in this state, and
224 (iii) to undertake and maintain its primary production of helicopters to
225 be produced during the term of the assistance agreement under one or
226 more future United States government programs specified in the
227 assistance agreement in this state under production contracts entered
228 into by the eligible taxpayer after the effective date of this section;

229 (E) The amount of sales and use tax that the eligible taxpayer is
230 eligible to offset for each compliance year set forth in the assistance
231 agreement, provided the eligible taxpayer meets the minimum
232 requirements for each such compliance year;

233 (F) The terms and conditions of the repayment of any sales and use
234 tax offsets and other required financial penalties resulting from the
235 eligible taxpayer's failure to comply with the terms of the assistance
236 agreement;

237 (G) The amount of corporation business tax, subject to the limits set
238 forth in subsection (e) of this section, against which the eligible taxpayer
239 is eligible to claim a credit for each compliance year set forth in the
240 assistance agreement, provided the eligible taxpayer meets the
241 minimum requirements for each such compliance year;

242 (H) The manner and method for the eligible taxpayer to provide
243 notice of any disputed claim under the assistance agreement; and

244 (I) Any other terms and conditions the commissioner may require.

245 (3) The assistance agreement shall provide that the project tax benefit
246 be earned and utilized during the first eight years of the term of any

247 production contract, provided no project tax benefit may be earned or
248 utilized beyond the benefit period.

249 (4) Any eligible taxpayer that enters into an assistance agreement
250 with the commissioner under this subsection may, in the event of any
251 disputed claim under such assistance agreement, bring an action against
252 this state to the superior court for the judicial district of Hartford for the
253 purpose of having such claim determined, provided notice of such
254 disputed claim is first given to the commissioner in the manner and
255 method described in such assistance agreement. No such action shall be
256 allowed unless it is brought not later than two years after the date on
257 which the eligible taxpayer gave proper notice to the commissioner in
258 accordance with such assistance agreement. All legal defenses under
259 such assistance agreement, except sovereign immunity, are reserved to
260 this state.

261 (5) If the provisions of subsection (c) or (e) of section 32-223 of the
262 general statutes or section 32-462 of the general statutes are in conflict
263 with the assistance agreement, the provisions of such assistance
264 agreement shall supersede.

265 (6) Upon the execution of the assistance agreement, the commissioner
266 shall issue an allocation notice stating the maximum combined amount
267 of the sales and use tax offset and the refundable tax credit available to
268 the eligible taxpayer for the benefit period and the specific requirements
269 the eligible taxpayer shall meet to qualify for such offset and credit. Such
270 notice shall certify to the eligible taxpayer that the offsets and credits
271 may be claimed by the eligible taxpayer if the eligible taxpayer meets
272 the specific requirements set forth in the notice.

273 (d) (1) The assistance agreement shall provide for the offset of sales
274 and use tax amounts otherwise payable by the eligible taxpayer under
275 the provisions of chapter 219 of the general statutes. Such offset shall be
276 made in the form, timing and manner determined by the commissioner
277 in consultation with the Commissioner of Revenue Services. The sales

278 and use tax offset amounts shall be calculated after the application of all
279 other sales and use tax exemptions set forth in chapter 219 of the general
280 statutes in effect on the effective date of this section and any subsequent
281 amendments to said chapter that the eligible taxpayer is eligible to
282 claim. Nothing in this subsection shall affect the eligible taxpayer's
283 ability to claim the sales and use tax exemptions that it otherwise
284 qualifies for under any provision of the general statutes.

285 (2) Subsequent to a production contract taking effect for helicopters
286 to be produced during the term of the assistance agreement, not later
287 than sixty days after the end of each compliance year or, if the eligible
288 taxpayer requests and the commissioner approves an extended date, not
289 later than such extended date, the eligible taxpayer shall certify, subject
290 to a third-party audit performed in accordance with the Department of
291 Economic and Community Development audit guide or such protocols
292 as may be set forth in the assistance agreement, the actual employment,
293 wages, supplier spend and capital expenditure amounts to the
294 commissioner in accordance with the requirements of the assistance
295 agreement. If the results of such audit reveal that the eligible taxpayer
296 has claimed a sales and use tax offset in excess of the amount allowable,
297 the eligible taxpayer shall be subject to the repayment provisions as set
298 forth in the assistance agreement. At the end of each compliance year,
299 upon receipt of the eligible taxpayer's certification, the commissioner
300 shall notify the Commissioner of Revenue Services whether the eligible
301 taxpayer has met all minimum requirements necessary to qualify for the
302 sales and use tax offset or is required to repay the amount of such offset
303 in accordance with the terms of the assistance agreement.

304 (e) (1) If the results of the audit performed pursuant to subdivision
305 (2) of subsection (d) of this section reveal that the eligible taxpayer was
306 unable to utilize all of the sales and use tax offset to which it was entitled
307 under the assistance agreement for a compliance year against its sales
308 and use tax liability, the assistance agreement shall permit the eligible
309 taxpayer to claim the excess amount as a refundable tax credit, not to
310 exceed five million dollars for each compliance year, against the

311 corporation business tax. If the amount of the excess is greater than five
312 million dollars for any compliance year, the excess over five million
313 dollars shall be carried forward to future compliance years to offset the
314 eligible taxpayer's sales and use tax liability and then as refundable tax
315 credits of up to five million dollars for each compliance year against the
316 eligible taxpayer's corporation business tax liability, until the excess is
317 fully utilized, except that no carry-forward shall extend beyond the
318 benefit period. Such carry-forward shall be utilized prior to any sales
319 and use tax offset earned in any subsequent compliance year.

320 (2) If the amount of the refundable tax credit exceeds the eligible
321 taxpayer's corporation business tax liability for the applicable income
322 year, the Commissioner of Revenue Services shall treat such excess as
323 an overpayment and shall refund the amount of such excess, without
324 interest, to the eligible taxpayer. In no event shall the refundable tax
325 credits allowed under this subsection exceed forty-five million dollars
326 in the aggregate over the term of the assistance agreement. The eligible
327 taxpayer shall claim the refundable tax credit allowed under this
328 subsection on its corporate tax return for the income year that ends
329 during the compliance year and such credit shall not be subject to the
330 limits set forth in section 12-217zz of the general statutes.
331 Notwithstanding the provisions of section 12-217aa of the general
332 statutes, such credit shall be claimed after all other tax credits have been
333 claimed.

334 (3) Not later than thirty days after the commissioner receives an audit
335 performed pursuant to subdivision (2) of subsection (d) of this section
336 or as provided for in the assistance agreement, during each year of the
337 benefit period, the Department of Economic and Community
338 Development shall issue the eligible taxpayer a credit voucher that sets
339 forth the amount of the refundable tax credit permitted pursuant to this
340 subsection and the income year for which such credit may be claimed.
341 The commissioner shall annually provide to the Commissioner of
342 Revenue Services a report detailing all credit vouchers that have been
343 issued under this subsection.

344 (f) (1) The eligible taxpayer shall pay the total amount of project tax
345 benefit that was utilized by the eligible taxpayer for a particular
346 compliance year and any penalty set forth in the assistance agreement if
347 the commissioner determines that the eligible taxpayer failed to satisfy
348 any of the minimum requirements for such compliance year.

349 (2) The project tax benefit utilized by the eligible taxpayer under
350 subsections (d) and (e) of this section shall be subject to recapture during
351 the contract years commencing on or after July 1, 2032, and ending on
352 June 30, 2042, if the eligible taxpayer fails to satisfy during such time
353 period certain annual thresholds relating to employee head count,
354 average wages, supplier spend and capital expenditures, as detailed in
355 the assistance agreement, and such other requirements including (A) the
356 maintenance of the wholly-owned subsidiary's headquarters, as set
357 forth in the assistance agreement, in this state, (B) the maintenance and
358 operation of the company's primary helicopter production facility for its
359 current United States government programs, as of the date of the
360 assistance agreement, in this state, (C) the undertaking and maintaining
361 in this state of the company's primary production for helicopters to be
362 produced during the term of the assistance agreement under one or
363 more of its future United States government programs specified in the
364 assistance agreement under production contracts entered into by the
365 eligible taxpayer after the effective date of this section, and (D) the
366 maintenance of diversity and workforce training programs by the
367 company in accordance with the terms of the assistance agreement.

368 (3) If the eligible taxpayer enters into a production contract with the
369 United States government for one helicopter program specified in the
370 assistance agreement, the targeted job requirement shall be seven
371 thousand two hundred fifty, and the minimum job requirement shall be
372 six thousand for each of the years subject to the recapture under
373 subdivision (2) of this subsection. If the eligible taxpayer enters into
374 production contracts with the United States government for two
375 helicopter programs specified in the assistance agreement, the targeted
376 job requirement shall be seven thousand seven hundred fifty, and the

377 minimum job requirement shall be seven thousand for each of the years
378 subject to the recapture under subdivision (2) of this subsection. The
379 annual recapture amount shall be (A) repaid if the number of actual jobs
380 in any year subject to the recapture is less than the minimum job
381 requirement, and (B) prorated at ninety per cent value of the annual
382 recapture amount if the number of actual jobs is equal to or greater than
383 the minimum job requirement but less than the targeted job
384 requirement. In addition to the recapture job obligation, the
385 commissioner may require other criteria, including, but not limited to,
386 wage requirements, with respect to the recapture of the remaining ten
387 per cent of the annual recapture amount. In no event shall the amount
388 of the recapture exceed the annual recapture amount.

389 (g) The aggregate amount of the project tax benefit granted by the
390 commissioner under this section shall not exceed (1) six million two
391 hundred fifty thousand dollars for each compliance year or fifty million
392 dollars during the term of the assistance agreement if the eligible
393 taxpayer has entered into a production contract after the effective date
394 of this section with the United States government for one helicopter
395 program specified in the assistance agreement, and (2) nine million
396 three hundred seventy-five thousand dollars for each compliance year
397 or seventy-five million dollars during the term of the assistance
398 agreement if the eligible taxpayer has entered into production contracts
399 after the effective date of this section with the United States government
400 for two helicopter programs specified in the assistance agreement.

401 (h) The commissioner shall not enter into any assistance agreement
402 under subsection (c) of this section after January 31, 2023.

403 (i) The commissioner may make revisions to the terms of the
404 assistance agreement to address a scenario where a delay, not caused by
405 the eligible taxpayer, prevents the eligible taxpayer from entering into
406 one or more production contracts by June 30, 2024. Such revisions may
407 include changes to the timing of (1) the benefit period, (2) the
408 compliance years, (3) the contract years, (4) the minimum requirements,

409 and (5) the recapture period, and other conforming changes, provided
410 in all cases, the project tax benefit shall be earned and utilized during
411 the first eight years of the term of any such production contract.

412 (j) The commissioner may from time to time amend, supplement or
413 modify the terms of the assistance agreement consistent with the
414 provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>from passage</i>	New section
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